

**§ 22.162**

(b) *Records of receipt and shipment.* Records of receipt and shipment shall consist of the consignor's or consignee's (as the case may be) invoice, bill or bill of lading, or another document used for the intended purpose. Records of receipt shall record only the quantity of tax-free alcohol actually received. Losses in transit shall not be considered as received, but may be the subject of a claim for allowances of losses, as prescribed in Subpart I of this part.

(c) *Records of usage.* For the purpose of this subpart, tax-free or recovered alcohol shall be considered as "used" when permanently removed from a permittee's supply storeroom, compartment, or tank for any authorized use. Records of usage shall identify the tax-free alcohol by quantity, proof, and purpose of removal (office, department or location to which dispensed). This record shall list separately, the usage of tax-free alcohol from recovered alcohol or alcohol received from the General Services Administration.

(d) *Records of destruction.* Records of destruction shall consist of a copy of the notice of intention to destroy, prescribed in § 22.141, signed by an appropriate TTB officer or employee witnessing the destruction.

(e) *Claims.* Claims for allowance of losses of tax-free alcohol, required to be filed under Subpart I of this part, shall consist of Forms 2635 (5620.8) and supporting data.

(Approved by the Office of Management and Budget under control number 1512-0334)

**§ 22.162 Inventories.**

Each permittee shall take a physical inventory of the tax-free and recovered alcohol in its possession semi-annually for the periods ending June 30 and December 31 of each year; or other inventory periods which are approximately 6 months apart, upon filing written notice with the appropriate TTB officer establishing other inventory periods. These inventories may be recorded separately or as an entry in the record of usage with any necessary adjustments (losses or gains). If an inventory results in a loss in excess of the quantities prescribed by Subpart I of this

part, the permittee shall file a claim for allowance of loss.

(Notice approved by the Office of Management and Budget under control number 1512-0335; recordkeeping approved by the Office of Management and Budget under control number 1512-0334)

**§ 22.163 Time for making entries.**

Any person who conducts an operation which is required to be recorded under this part, shall enter that operation in the records on the same day the operation occurred. However, the daily posting of records may be deferred to conform to the permittee's normal accounting cycle if (a) supporting or supplemental records are prepared at the time of the operation, and these supporting or supplemental records are to be used to post the daily record, and (b) the deferral of posting does not pose a jeopardy to the revenue.

**§ 22.164 Filing and retention of records.**

Each person required to maintain records of operations and transactions under this part shall:

(a) Keep on file all records and copies of claims for a period of not less than 3 years following the date of transaction or, at the discretion of the appropriate TTB officer, an additional 3-year period; and

(b) Maintain all records at the permit premises, except that the records may be kept at a central location by a State or political subdivision of a State, or the District of Columbia which distributes tax-free alcohol to multiple dependent agencies, institutions, or departments.

**§ 22.165 Photographic copies of records.**

(a) *General.* Permittees may record, copy, or reproduce required records. Any process may be used which accurately reproduces the original record, and which forms a durable medium for reproducing and preserving the original record.

(b) *Copies of records treated as original records.* Whenever records are reproduced under this section, the reproduced records shall be preserved in conveniently accessible files, and provisions shall be made for examining, viewing, and using the reproduced records the same as if they were the original record, and they shall be treated and considered for all purposes as though they were the original record. All provisions of law and regulations applicable to the original are applicable to the reproduced record. As used in this section, “original record” means the record required by this part to be maintained or preserved by the permittee, even though it may be an executed duplicate or other copy of the document.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5555))

### Subpart N—Use of Tax-Free Spirits by the United States or Government Agency

#### § 22.171 General.

(a) The United States or any of its Government agencies may withdraw tax-free spirits for nonbeverage purposes from a distilled spirits plant under this part, as authorized by 26 U.S.C. 5214(a)(2). Before any tax-free spirits may be withdrawn, a permit to procure the spirits shall be obtained from the appropriate TTB officer.

(b) The provisions of subpart M of 27 CFR part 27 cover the withdrawal of imported spirits, free of tax, for use of the United States or any of its Government agencies.

(26 U.S.C. 5214, 5271, 5272, 5276)

[T.D. ATF-199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF-285, 54 FR 12610, Mar. 28, 1989; T.D. ATF-479, 67 FR 30798, May 8, 2002]

EFFECTIVE DATE NOTE: By T.D. TTB-79, 74 FR 37404, July 28, 2009, § 22.171 was amended by removing the last sentence of paragraph (a), effective July 28, 2009 through July 30, 2012.

#### § 22.172 Application and permit, Form 5150.33.

(a) All permits previously issued to the United States or any of its Government agencies on Form 1444 shall re-

main valid and shall be regulated by the same provisions of this subpart as it refers to permits on Forms 5150.33.

(b) A Government agency shall apply for a permit to obtain tax-free spirits on Form 5150.33. Upon approval, Form 5150.33 will be returned to the Government agency, and shall serve as authority to procure spirits free of tax.

(c) A Government agency may specify on its application for a permit to procure tax-free spirits, Form 5150.33, that it desires a single permit authorizing all sub-agencies under its control to procure tax-free spirits; or each Government location (agency, department, bureau, and etc.) desiring to procure tax-free spirits for nonbeverage purposes may individually submit an application for a permit on Form 5150.33.

(d) An application for a permit shall be signed by the head of the agency or sub-agency, or the incumbent of an office which is authorized by the head of the agency or sub-agency, to sign. Evidence of authorization to sign for the head of the agency or sub-agency shall be furnished with the application.

(e) Tax-free spirits obtained by Government agencies may not be used for non-Government purposes.

[T.D. ATF-199, 50 FR 9183, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

#### § 22.173 Procurement of tax-free spirits.

Each Government agency shall retain the original of its permit, Form 5150.33, on file. When placing an initial order with a vendor, the agency shall forward a photocopy of its permit with the purchase order for tax-free spirits. In the case of an agency holding a single permit for use of other sub-agencies, the photocopy of the permit shall contain an attachment listing all other locations authorized to procure tax-free spirits. Any subsequent purchases from the same vendor need only contain the permit number on the purchase order.

#### § 22.174 Receipt of shipment.

On receipt of a shipment of tax-free spirits, a representative of the Government agency shall inspect the shipment for any loss or deficiency. In the case of loss or deficiency, the agency shall annotate the receiving document